

# Order

Michigan Supreme Court  
Lansing, Michigan

September 24, 2008

Clifford W. Taylor,  
Chief Justice

133522

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellee,

v

SC: 133522  
COA: 264597  
Oakland CC: 04-199751-FH

THOMAS WAYNE RUSSELL,  
Defendant-Appellant.

By order of July 18, 2007, the application for leave to appeal the February 8, 2007 judgment of the Court of Appeals was held in abeyance pending the decision in *People v Cannon*, (Docket No. 131994). On order of the Court, the case having been decided on June 4, 2008, 481 Mich 152 (2008), the application is again considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we VACATE that part of the Court of Appeals judgment addressing defendant's argument regarding whether points for predatory conduct may be assessed for Offense Variable 10, MCL 777.40(3)(a) (exploitation of a vulnerable victim), where the victim is a police decoy, and we REMAND this case to the Court of Appeals for reconsideration of that issue in light of *Cannon, supra*. In all other respects, leave to appeal is DENIED, because we are not persuaded that the remaining questions presented should be reviewed by this Court.

We do not retain jurisdiction.



d0917

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 24, 2008

*Corbin R. Davis*

Clerk